

M/s Vardhman Infra Home Pvt. Ltd. Vs. Kalpana  
Appeal No.1330 of 2019

Present: Shri Anurag Jain, Advocate, learned counsel for the appellant.

Vide our order dated 09.10.2019 the appellant/promoter was directed to comply with the provisions of proviso to section 43(5) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter called 'the Act') and to deposit the requisite amount i.e. whole of the amount payable to the respondent/allottee, as imposed by the Haryana Real Estate Regulatory Authority, Gurugram vide impugned order, with the Tribunal on or before 31.10.2019. As per the report of the office no amount has been deposited by the appellant/promoter till date.

Learned counsel for the appellant has requested that the time for deposit of the amount may be extended at least for one week as the appellant is trying to arrange the funds.

We have duly considered the aforesaid contention.

The appellant has already been granted more than sufficient time to deposit the requisite amount. Moreover, in this case the appeal was filed on 09.09.2019. It was put up for the first time before this Tribunal on 09.10.2019 on which date the application filed by the appellant for waiver of the condition of pre-deposit was dismissed by this Tribunal. Even on that date, the appellant was granted more than three weeks time to deposit the requisite amount. So, sufficient time has already been granted to the appellant/promoter. There is no justification to further extend time. So, the request made by learned counsel for the appellant is hereby declined.

It is settled principle of law that the provisions of proviso to section 43(5) of the Act are mandatory. It is a condition precedent

for entertainment of the appeal filed by the promoter to deposit the requisite amount. In the instant case, the appellant/promoter has not complied with the mandatory provisions of proviso to section 43(5) of the Act inspite of sufficient opportunity. Consequently, the present appeal cannot be entertained and the same is hereby dismissed.

File be consigned to records.

Justice Darshan Singh (Retd.)  
Chairman,  
Haryana Real Estate Appellate Tribunal,  
Chandigarh  
04.11.2019

Inderjeet Mehta  
Member (Judicial)  
04.11.2019

Anil Kumar Gupta  
Member (Technical)  
04.11.2019